DOD/IG Audit of Price Reasonableness Determination Report No. D-2001-129

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PCO Seminar

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DOD/IG Audit of Price Reasonableness

- Audit Findings
- PK'S Corrective Steps
- Refresher—Pricing Policy/TINA Exceptions
- New Procedure—APC/One Offeror
- DCAA Support Services
- Pricing Resources

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- Source of information:
  - (1) HQ AFMC/PK Ltr. dated 9 Nov 01
  - (2) SAF/AQC Ltr. dated 28 Sep 01
  - (3) Audit Report No. D-2001-129 dated 30 May 01 at http://www.dodig.osd.mil/audit/reports/fy01/01-129pt1.pdf
- Our direction: Present an overview of the audit findings and provide guides/tools/training that will enhance the pricing skills of contracting professionals

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- **Audit Findings:**
  - Acceptance of catalog prices w/o verification or discussions
  - Inappropriate reliance on previous prices paid for comparison purposes
  - Acceptance of unsupported costs
  - Inappropriate use of the exceptions to the Truth In Negotiations Act (TINA)
- Additionally, the audit cited concerns regarding the impact of urgent requirements on pricing/lack of requests for DCAA assistance

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- The audit addressed **price reasonableness determinations** of contracting officers when cost or pricing data was **not** obtained
- Sample size: Contracting actions (145) exceeding $100,000 & awarded in FY 1998 and FY 1999
  - 103 Sole Source/42 Competitive One-bid actions
  - 52 Commercial/93 Noncommercial
- Audit conclusion: In many cases, **price reasonableness determinations** are not adequately documented

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- **PK's Corrective Steps:**
  - (1) Ensure awareness of and compliance with the TINA exceptions at FAR 15.403-1
  - (2) Conduct a pricing review on all competitive solicitations where only one response is received
  - (3) Maximize the use of DCAA in providing support services
  - (4) Encourage consideration of pre-existing contracts when processing urgent requirements

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- Pricing Policy: FAR 15.402 states that contracting officers shall purchase supplies/services from responsible sources at **fair and reasonable prices**
- All offered prices must be analyzed to determine **price reasonableness**
- Analysis of price typically requires some sort of information/data

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- FAR 15.402(a) provides an order of preference of the **types of information** to be used in price analysis
  - No additional information from the offeror, if price is based on adequate price competition
  - Information other than cost or pricing data
  - Cost or pricing data

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- FAR 15.403-1 establishes **exceptions to cost or pricing data** requirements
  - Where **adequate price competition** exists
  - When prices are set by law or regulation
  - When a commercial item is acquired
  - Where a waiver has been granted

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- **Adequate price competition** exists when
  - Two or more responsible offerors submit prices
  - Only **one offeror** submits a price, even though there was a reasonable expectation based on market research that two or more responsible offerors would respond to solicitation
  - Price analysis clearly demonstrates reasonableness when the instant buy is compared to a previous price based on APC

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- In the case where only **one offeror** is received, **two** actions must be accomplished by CO:
  - (1) Determination that there was the expectation of competition
    - the offeror believed that at least one other offeror was capable of submitting a meaningful offer, and
    - the offeror had no reason to believe that other potential offerors did not intend to submit an offer
  - (2) Determination of price reasonableness
    - DFARS 215.403-1(c)(1)(B)(ii) states that reasonableness must be established on the basis of price analysis
    - Price analysis techniques are described at FAR 15.404-1(b)

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- (3) CO must prepare D&F (Determination and Finding)
  - stating that the price is based on APC
  - stating and that the price is reasonable
  - AFFARS 5315.402(c)(1)(ii)(B) requires that the **approval of D&F** be made by the **Senior Center Contracting Official**

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- **FAR 15.404-1(b)-Techniques of Price Analysis**
  - (1) Comparison of proposed prices received in response to the solicitation (APC)
  - (2) Comparison of previously proposed prices and previous Government and commercial contract prices with current proposed prices for the same or similar items, if both the validity of the comparison and the reasonableness of previous prices can be established
  - (3) Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount/rebate arrangements

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- **Techniques of Price Analysis (continued)**
  - (4) Comparison of proposed prices with independent Government cost estimates
  - (5) Comparison of proposed prices with prices obtained through market research for the same/similar items
  - (6) Analysis of pricing information provided by the offeror
  - (7) Use of parametric estimating methods/application of rough yardsticks (such as dollars per pound or per horsepower, or other units) to highlight significant inconsistencies that warrant additional pricing inquiry

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- **New Procedure**
  - For competitive solicitations where only one offeror responded, a **new procedure** has been established in the Warner Robins Air Logistics Contracting Handbook:
    - "For all acquisitions, in excess of the micro-purchase threshold, where there was a reasonable expectation, based on market research or other assessment, that two or more responsible offerors, competing independently, would submit price offers, even though only one offer is received and the price is determined fair and reasonable, the determination of price reasonableness shall be reviewed by the Contracts Pricing Branch, PKPF, and approved one level above the PCO prior to award."

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- **DCAA Support Services:**
  - verification of sales history, including similar items
  - verification of the item to an existing catalog or price list
  - verification of historical data for an item previously not determined commercial that the offeror is now trying to qualify as commercial
  - information concerning customarily offered discounts and terms regarding delivery, financing, and warranties
  - verification of pricing information to source documents
  - comparison of negotiated unit prices with actual prices to establish trends with current item or similar items

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- **Pricing Resources**:
  - AFMC-generated resources can be found at https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/PK/pkp/pricing.htm
    - PNM/PCM Guide
    - Economic Data (Prompt Payment Rate, Underpayment Interest Rate, Nominal Discount Rate, Bureau of Labor Statistics, Davis-Bacon Act Rates, Per Diem Rates)
    - Software Shelf (Pricing Advisory Tool, Simple Interest Calculator, EZ-Quant)

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- **Pricing Resources** (continued)
  - AFMC-generated resources
    - Commercial Homepage (Commercial Business Approach Training, Frequently Asked Questions, IG/GAO/Congressional, Market Research)
    - Performance-Based Payments Page
    - Pricing & Financing Hot Links
  - SAF/AQC-generated information can be found at http://www.safaq.hq.af.mil/contracting/toolkit/part15/price/xpricing3.html
    - Contract Pricing (TINA, What is fair and reasonable, Commercial Pricing, Parametics)
    - Contract Pricing Reference Guides